

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

West Bend Mutual Insurance Comp)	
)	
Plaintiff(s),)	
)	Case No. 18 CV 04671
v.)	Magistrate Judge Iain D. Johnston
)	
Melchor Martinez d/b/a A Affordable)	
)	
Defendant(s).)	

JOINT INITIAL STATUS REPORT

The parties submit this joint initial status report in advance of the initial status hearing set for October 11, 2018.

All parties who have appeared shall join in the filing of this initial status report. An initial status report must still be filed even if filed unilaterally.

1. Nature of the Case Including Legal Issues, Factual Issues, and Affirmative Defenses.

For claims by or against only some parties, identify which.

Plaintiff, West Bend has filed a Complaint for Declaratory Judgment seeking a declaration that it does not have a duty to defend or indemnify Martinez in the underlying case filed by defendants, J.E. and Maria Becerra. The underlying complaint alleges that J.E., an employee of Martinez who was hired to assist in removing tree branches and logs, was injured when he was standing too close to a tree that was being cut down and he was seriously injured when he was struck by a large branch. West Bend issued a policy of insurance to Martinez which contains an Employer's liability exclusion which would exclude the underlying case from coverage.

2. Parties and Service

Identify each individual plaintiff:

West Bend Mutual Insurance Co.

Identify each individual defendant and the status of service. If more space is needed, attach additional pages to the end of this report.

Defendant	Date Served	Date Appeared	Answer Due or Date Answered
Melchor Martinez d/b/a A Affordable	9/7/18		10/7/18
J.E. a minor and Maria Becerra	Waived	8/8/18	

For each defendant not served, describe the efforts to serve that defendant. If more space is needed, attach additional pages to the end of this report.

Defendant	Efforts to Serve
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List any potential party the defendant(s) may seek to add as a third-party defendant.

Third-Party Defendant	Basis of Liability
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3. Status of Settlement Discussions and the Potential for Settlement

There have been no settlement negotiations in the coverage case. A policy limit demand was made in the State Court case but was not responded to because of the coverage denial.

4. Identify any Parallel Cases (including but not limited to possible MDL litigation, underlying criminal proceedings, or related litigation).

Case Name	Case #	Court	Nature of Proceeding
J.E. a Minor and Maria B	18L156	Winnebago	Personal Injury

5. Identify all Pending or Anticipated Motions

Motion (including docket number if already filed)	Date Filed or Anticipated
Motions to Dismiss	10/11/18
Motion for Judgment on the Pleadings	11/05/18
Motion for Summary Judgment	

6. Discovery

During the initial status hearing the Court will likely set a deadline for submitting a proposed case management order at a later date. To help guide that discussion, the parties shall provide their best estimates formed after reasonable investigation and inquiry of the amount and scope of discovery in response to the following questions:

The plaintiff(s) anticipate(s) taking about 0 depositions of fact witnesses.

For claims involving medical conditions, the plaintiff has about treaters who are either (check one) ☐ all located in or near the Rockford/Chicago areas, or ☐ includes treaters located outside the Rockford and Chicago areas such as .

The plaintiff(s) (check one) ☐ anticipate(s) using about retained expert witnesses, or ☒ do(es) not anticipate retaining expert witnesses.

The defendant(s) anticipate(s) taking about 4-5 depositions of fact witnesses. That number does not include any of the depositions the plaintiff(s) anticipate(s).

The defendant(s) (check one) ☒ anticipate(s) using about 1 retained expert witnesses, or ☐ do(es) not anticipate retaining expert witnesses.

The parties anticipate that fact discovery (which includes treating physician depositions) will take about 6 months.

7. Consent to the Magistrate Judge

(Must check one)

- ☐ All parties have appeared and will file a written consent to proceed before the Magistrate Judge for all purposes.
- ☒ Not all parties will consent to proceed before the Magistrate Judge.

PLAINTIFF(S)

West Bend Mutual Insurance Company

DEFENDANT(S)

J.E. a minor and Maria Becerra

By:

/s/ Kelly E. Purkey

By:

/s/ Frank Olavarria

Rev. 12/12/2017